

The facts, in brief, of the case are that the petitioner is a registered firm under the Shops and Commercial Establishment Act, 1958 and is carrying on the business of 'Bardana' in the area. An advertisement was published by the respondent No.3 & 4 in the month of January, 1993 inviting applications for allotment of 36 Sundry shops in Nai Mandi Area of Alwar. Out of 36 shops, 7% shops were reserved for SC, 5% for ST, 2% for Ex-Soldier, 2% for handicapped persons and 2% for unemployed graduates in agriculture. The petitioner firm submitted an application in response to the said advertisement and applied for shop in 7% reservation for SC. On 18.3.1995, the authorities have allotted 34 shops to various

persons out of 36 shops advertised and in this list only 2 members of SC quota have been allotted shops and the name of the petitioner did not find place in the list.

It is stated in the writ petition that 7% of 36 shops would be 2.52 and since percentage is above than .50 then the same ought to have been taken as 3, but the respondents have not worked out the number of shops as per said percentage method where fraction of more than .50 is there then the same is to be round off in full figure 1.

The respondent Nos.2 to 4 have filed reply to the writ petition and submitted that name of the petitioner remained below in merit, therefore, the petitioner was not entitled for any relief. The respondents have further stated that in all 34 shops have been allotted, therefore, percentage is to be worked out on the basis of 34. It is further stated by them that as per order of the State Government, one shop has been allotted to National Seed Corporation and another has been auctioned, therefore, said shops cannot be included in the advertised 36 shops.

The submission of counsel for the petitioner is that total percentage of 7% for SC quota is to be worked out on the basis of advertised 36 shops and in case, it is worked out then it would be 2.52 and on rounding off the figure .52, same would be 1, therefore, in all 3 shops were required to be allotted to the members of SC quota. Counsel for the petitioner has placed reliance on the judgment of this Court in case of **Ghan Shyam Sharma V/s The**

Principal, St. Patricles Vidya Bhawan – (2000 (4) WLC (Raj.) 159) and judgment of Supreme Court in case of **State of U.P. & anr. V/s Pawan Kumar Tiwari & Ors. - (2005) 2 SCC 10** wherein rule of rounding off held to be based on logic and common sense is “if part is one-half or more, its value shall be increased to one and if part is less than half then its value shall be ignored”.

The submission of counsel for the respondent is that 7% quota for SC was required to be worked out on the basis of 34 shops as detailed out in the reply and it is worked out on 34 then the same would be 2.38 and further they have rightly allotted two shops for SC members.

Heard learned counsel for the parties and gone through the record of the case and further considered rival submissions of the parties.

In my view, 7% of SC quota is to be worked out on total number of 36 shops as advertised by the respondents in January, 1993, not on 34. In case of reduction of total number of shops, a fresh advertisement was required to be issued, but no such fresh advertisement was issued, therefore, total number of 36 is to be taken for working out 7% of SC quota. In case, same is worked out then it would be 2.52. The aforesaid rounding off method has been upheld by the Supreme Court in case of **State of U.P. & anr.** (supra) in para 7, which is as follows:-

“We do not find fault with any of the two reasonings adopted by the High Court. The

rule of rounding off based on logic and common sense is: if part is one-half or more, its value shall be increased to one and if part is less than half then its value shall be ignored. 46.50 should have been rounded off to 47 and not to 46 as has been done. If 47 candidates would have been considered for selection in general category, the respondent was sure to find a place in the list of selected meritorious candidates and hence entitled to appointment."

(emphasis supplied)

In view of aforesaid principle, the respondents were required to allot 3 shops for SC members. The respondents have not submitted that in between last allottee and the petitioner, one more person of SC is there, therefore, the petitioner is entitled for allotment of one shop in SC quota.

Accordingly, the writ petition is allowed and the respondents are directed to allot one shop to the petitioner in SC quota, in case, same is vacant and if not vacant then as and when any shop is constructed then the same would be allotted to the petitioner. No order as to costs..

(P.S. ASOPA) J.

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